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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,982	03/26/2004	Bernd Rumpf	04249448	9628
7590	08/26/2005			EXAMINER MILLER, CARL STUART
Richard A. Speer MAYER, BROWN, ROWE & MAW LLP P.O. Box 2828 Chicago, IL 60690-2828			ART UNIT 3747	PAPER NUMBER

DATE MAILED: 08/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/809,982	RUMPF, BERND	
	<b>Examiner</b>	<b>Art Unit</b>	
	Carl S. Miller	3747	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 19 April 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-7 is/are rejected.
- 7) Claim(s) 8 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

Art Unit: 3747

The following is a quotation of 35 USC 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schuchardt (DE ('838)).

In particular, The following is a quotation of 35 U.S.C. 103(a) which forms the basis for the abstract indicates that the ventilation lines can be downstream of the jet pump and since the shown vent is at the highest point of the inlet line to the jet pump, it would have been obvious to place any vent downstream of the pump also at the high point in that line. Also, Figure 1 appears to show a resilient member used as the closure, while Figure 2 clearly uses a "stiff wall" element.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schuchardt in view of WO ('138).

WO ('138) applies (as noted in the Foreign Search Report) in that it teaches a bolt element used to control a vent valve. Since the bolt of the reference would be held open by high fluid pressure in the chamber, this device would have been an obvious way to vent the jet pump line of Schuchardt.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schuchardt in view of Schuster.

Schuster teaches a float valve used to vent air in a fluid passage, thereby making this an obvious element to use for sensing low flow in Schuchardt.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schuchardt in view of Sawamoto.

Sawamoto teaches using a hinged wall to close a vapor vent for a fluid chamber, thereby making this an obvious mechanical expedient for closing the feed line of the Schuchardt jet pump.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schuchardt in view of Germany ('287).

Germany ('287) clearly teaches the use of a flexible wall to vent fluid flow and, since Schuchardt appears to show such an element in Figure 1, it would have been obvious to use this type of vent valve in Schuchardt.

Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's arguments filed April 19, 2005 have been fully considered but they are not persuasive.

In particular, while the words used in the specification of Schuchardt do correspond to the noted words in applicant's arguments, the applicant's attention is also directed to the bottom of page 7 of the translation provided. This passage clearly states that the ventilation valve may be located in pipe 4 of the device. The examiner considered the idea that this might be a mistake since Figure 1 does not show this embodiment, but the EP examiner apparently did not think this was the case and the

Art Unit: 3747

fact that the pipe is identified as being connected to mixing pipe 11 (which line 29 is not) makes the passage impossible to ignore.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carl Miller whose telephone number is (571) 272-4849. The examiner can normally be reached on MTWTHF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Yuen, can be reached at 571-272-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Carl S. Miller  
Primary Examiner